

APPEAL NO. 041793
FILED AUGUST 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 15, 2004. The hearing officer determined that: (1) consistent with the parties' stipulation, the compensable injury of _____, does not extend to or include the left upper extremity; (2) the compensable injury of _____, does extend to and include reflex sympathetic dystrophy (RSD); and (3) the date of maximum medical improvement (MMI) and impairment rating (IR) are not ripe for adjudication. The appellant (carrier) appeals the extent-of-injury determination on sufficiency of the evidence grounds and asserts that the hearing officer should have adopted the required medical examination (RME) doctor's MMI/IR certification. The respondent (claimant) urges affirmance.

DECISION

Affirmed.

EXTENT OF INJURY

The hearing officer did not err in determining that the compensable injury of _____, extends to and includes RSD. This determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

MMI/IR

The hearing officer did not err in determining that the claimant's MMI and IR are not ripe for adjudication. It is undisputed that the designated doctor was not qualified to serve pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(d)(2)(C) (Rule 130.5(d)(2)(C)). In the absence of a valid designated doctor's report, the carrier argues that the hearing officer should have adopted the RME doctor's certification. The hearing officer found, however, that the carrier's RME doctor "did not properly consider the recommended surgery that was performed on March 18, 2002." In view of the evidence, we cannot conclude that the hearing officer's determination that the claimant's MMI and IR are not ripe for adjudication is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701-2554.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge